

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DEMETRIUS BROWN,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 04-379E
)	
U.S. JUSTICE DEPARTMENT,)	JUDGE MCLAUGHLIN
BUREAU OF PRISONS, FCI MCKEAN)	MAGISTRATE JUDGE BAXTER
WARDEN JOHN J. LAMANNA,)	
REGIONAL DIRECTOR D. SCOTT)	Electronically Filed
DODRILL, MEDICAL DIRECTOR,)	
DIRECTOR HARLEY G. LAPPIN,)	
)	
Defendants.)	

**MOTION TO EXTEND TIME FOR FILING
A RESPONSIVE PLEADING AND/OR DISPOSITIVE MOTION**

Pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure, defendants the United States Justice Department, the Bureau of Prisons, FCI McKean Warden John J. LaManna, Regional Director D. Scott Dodrill, Medical Director and Director Harley G. Lappin, by their undersigned counsel, hereby file this Motion to Extend Time for Filing a Responsive Pleading and/or Dispositive Motion, and in support thereof state as follows:

1. *Pro se* prisoner Demetrius Brown filed a Complaint in the above-captioned action on December 28, 2005 under the provisions of the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2671 *et seq.* Plaintiff's Complaint seeks \$10 million in damages for personal injuries allegedly caused by plaintiff's alleged exposure to secondhand smoke during his incarceration at a federal prison located in McKean, Pennsylvania.

2. Because plaintiff did not effectuate service until September 19, 2005, defendants' responsive pleading or dispositive motion is currently due on November 18, 2005.

3. Defendants need additional time, however, to respond to the Complaint.

In particular, defendants include individuals who are being sued as a result of actions taken during their federal employment with the Federal Bureau of Prisons and, as a result, the individuals are currently requesting representation in this action from the Department of Justice. The United States Attorney, in turn, may not represent the individual defendants until such representation requests are approved by the Department of Justice. To date, such approval has not yet been received.

4. Additional time is also needed due to the current litigation demands of defense counsel.

5. Defendants therefore request an additional thirty (30) days, or until December 19, 2005, to respond to the allegations set forth in plaintiff's Complaint.

6. Neither this motion, the limited representation by the Department of Justice for purposes of this motion, nor the individual defendants' requests for representation are intended to waive any defense which may be asserted in this case.

7. Plaintiff is a *pro se* inmate and, as a result, has not been contacted regarding his consent or opposition to this motion.

WHEREFORE, defendants respectfully request that the Court grant their request for a thirty (30) day extension, or until December 19, 2005, to file their responsive pleading and/or dispositive motion to plaintiff's Complaint.

A proposed order is attached.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

/s/ Megan E. Farrell
MEGAN E. FARRELL
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(412) 894-7429
PA ID # 76972

Counsel for Defendants

Dated: November 17, 2005

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2005, a true and correct copy of the within Defendants' Motion to Extend Time for Filing a Responsive Pleading and/or Dispositive Motion was served via first-class mail upon the following:

Demetrius Brown
#21534-039
FCI Raybrook
P.O. Box 9001
Raybrook, NY 12977

/s/ Megan E. Farrell
MEGAN E. FARRELL
Assistant U.S. Attorney